

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA

v.

Criminal No. 3:14cr44 (DJN)

DILADE McCOY,
Petitioner.

MEMORANDUM OPINION

By Memorandum Opinion and Order entered on July 20, 2020, the Court denied an motion to vacate under 28 U.S.C. § 2255 filed by Dilade McCoy. (ECF Nos. 155, 156.) On January 18, 2022, the Court received a second 28 U.S.C. § 2255 motion from McCoy. (“Successive § 2255 Motion,” (ECF No. 193).)


The Antiterrorism and Effective Death Penalty Act of 1996 restricted the jurisdiction of the district courts to hear second or successive applications for federal habeas corpus relief by prisoners attacking the validity of their convictions and sentences by establishing a “‘gatekeeping’ mechanism.” *Felker v. Turpin*, 518 U.S. 651, 657 (1996). Specifically, “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Because the United States Court of Appeals for the Fourth Circuit has not authorized this Court to entertain McCoy’s Successive § 2255 Motion, the Successive § 2255 Motion (ECF No. 193) will be DISMISSED for want of jurisdiction.

An appeal may not be taken from the final order in a § 2255 proceeding unless a judge issues a certificate of appealability (“COA”). 28 U.S.C. § 2253(c)(1)(B). A COA will not issue

unless a prisoner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). McCoy has not satisfied this standard. Accordingly, a certificate of appealability will be DENIED.

An appropriate order will accompany this Memorandum Opinion.

Let the Clerk file a copy of the Memorandum Opinion electronically and send a copy to McCoy.

/s/ 

David J. Novak
United States District Judge

Richmond, Virginia

Dated: February 1, 2022